

PHYSICIAN ASSISTANT COMMITTEE

JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE 2002 SUNSET REVIEW REPORT

Four Year Overview of the Board's Regulatory Program, Board's Response to Issues and Recommendations from Previous Sunset Review, Background Paper for the 2001 Public Hearing, and Final Recommendations of the Joint Committee and the Department of Consumer Affairs

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PART 1.

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

BACKGROUND AND DESCRIPTION OF THE BOARD AND PROFESSION

The Physician Assistant Committee (PAC) was created by the Legislature in 1975, simultaneously to the licensing act. At the time, the California Legislature was concerned about the then existing shortage and geographic maldistribution of health care services in the State. The legislative intent (Business and Professions Code Section 3500) was in part to "create a framework for the development of a new category of health manpower - the physician assistant" and to encourage their utilization as a way of serving California's health care consumers.

The Committee's mandates include:

- Approving the educational and training requirements of Physician Assistants.
- Licensing of Physician Assistants.
- Promoting the health and safety of California health care consumers by enhancing PA competence.
- Coordinating investigation and disciplinary processes.
- Providing information and education regarding the PAC or PA professionals to California consumers.
- Managing a diversion program for PAs with alcohol/substance abuse problems.
- Collaborating with others regarding legal and regulatory issues that involve PA activities or the profession.

Current Composition of the Board (Public vs. Professional) and listing of Board Members, who appointed by, when appointed, when terms expire, and whether vacancies exist and for how long.

Prior to the last Sunset Review, the PAC agreed to change the composition of the committee so that there would be more public member input. The PA educator position was replaced with a public member position. The nine-member committee is now composed of:

- one physician member from the Medical Board of California
- four PAs
- four public members.

Current PAC Membership		
Professional Members (appointing authority)	Appointed	Term Ends
Holly Ferguson, PA-C (Governor)	01/01/99	01/01/03
Stephen Morey, PA (Governor)	01/01/99	01/01/03
Robert Sachs, PA-C (Governor)	05/11/01	01/01/04
Brian O'Bannon, FNP, PA-C (Governor)	05/11/01	01/01/04
Gary Gitnick, M.D. (Governor)	05/11/01	01/01/04
Public Members (appointing authority)		
Goodarz Haydarzadeh (Governor)	01/01/99	01/01/03
Mary Schmidt (Assembly)	05/25/01	01/01/05
Hosseini Salaami (Governor)	05/11/01	01/01/04
Vacant (resigned 01/01/2000) (Senate)		

Describe the Committees of the Board and their functions. Provide organization chart.

As the PAC did not have a quorum from January 1, 2001 until May 11, 2001 (term limits and a resignation limited membership to only 3 of 9 members), members have not decided what subcommittees they wish to form. Prior to this there were four committees:

The Executive and Budget Subcommittee. This subcommittee was responsible for long range planning, monitoring workload and fiscal data, evaluating special projects and budget change proposals, setting and revising tentative positions on pending legislation and regulations (e.g., that affect the PAC, its licensees, or consumers served by its licensees), and evaluates the performance of the executive officer.

Physician Education and Public Affairs Subcommittee. This subcommittee was responsible for developing strategic plans and written materials to encourage physicians to utilize physician assistants, and produce a newsletter (PAC Update) three times per year to inform licensees, consumers, and others of recent changes in laws and regulations that affect the PAC and its licensees, and of recent enforcement actions taken by the PAC against licensees.

Legislation and Regulation Subcommittee. This subcommittee was responsible for monitoring pending legislation and proposed regulations to assess their potential impacts on the PAC, its licensees, and consumers served by its licensees. In addition, this subcommittee recommended positions regarding laws and regulations to the full Committee.

The Licensing and PA Training Programs Subcommittee. This subcommittee was responsible for monitoring and evaluating content and quality of education and training provided by the applicant and approved PA educational and training programs, and California's PA initial licensure examination, for appropriateness to meet the needs of California consumers; recommended test, or subject area content test passing score, and test dates and locations.

Additionally, Ad hoc committees were formed to address specific issues. These committees included: review of Model Disciplinary Orders and Guidelines and Executive Officer Search Committee.

Who the Board Licenses, Titles, Regulates, etc. (Practice Acts vs. Title Acts)

The PAC licenses Physician Assistants under Chapter 7.7 of the Business and Professions Code. Prior to July 1, 2001, the PAC also approved Physician Assistant Supervisors. The PAC also approves California PA training programs.

Any major changes to the Board since the last review. (Internal changes, strategic planning, regulatory changes or recent legislation, etc.)

There have been a number of changes to the PAC over the past four years.

- In January 2001, a new Executive Officer, Richard L. Wallinder, Jr. was appointed. The previous Executive Officer retired.
- A web site for consumers, applicants, PAs, and physician assistant supervisors went online in October 2000. An updated web site that will further enhance PA and consumer ability to obtain information and interact with PAC staff will be available in September 2001.
- In August 2001, a new application was constructed. The application enhances consumer protection as it contains more questions concerning pending discipline or administrative action that an applicant may be facing. The application is available either from Committee staff or on the committee's Web site (www.physicianassistant.ca.gov)
- On July 1, 2001, a suggestion from the JLSRSC during the last Sunset Review concerning PA Supervisors became law. PA Supervisors no longer need to submit an application, pay a fee, or receive Medical Board of California approval to supervise a PA. All of the requirements pertaining to supervision, though, have not changed.
- In 1999, legislation (SB 816, Chapter 749, Statutes of 1999) was enacted that allows PAs transmit Schedule II drug orders.

Any major studies conducted by the Board. [Please provide copy of any documents or reports produced by or under the direction of the Board.]

The PAC has not conducted any major studies since the last Sunset Review.

Licensing Data [Table below]. What information does the Board provide regarding the licensee (i.e., education completed, awards, certificates, certification, specialty areas, etc.)?

Information regarding license status may be obtained by contacting the committee, the Medical Board of California Verifications Unit, or online via the committee's web site. The PAC discloses the following licensing information:

- Name.
- license status (renewed, delinquent, etc.).
- disciplinary actions (if any).
- license number.
- address of record.

- license issue date.
- license expiration date.
- PA training program attended.
- year graduated.

Information regarding awards, certificates, and specialty certification is not obtained from licensees and, thus, not available.

There are approximately 4,199 licensed physician assistants and 11,489 supervising physician approvals issued for FY 2000/01. As of June 30, 2001 the committee no longer issues supervising approvals. The following provides licensing data for the past four years:

LICENSING DATA FOR [PROFESSION]	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Total Licensed	Total:	Total:	Total:	Total:
California	2,946	3,194	3,558	3,889
Out-of-State	220	257	291	310
Applications Received	Total: 387	Total: 379	Total: 535	Total: 480
Applications Denied	Total: 1	Total: 4	Total: 6	Total: 1
Licenses Issued	Total: 325	Total: 363	Total: 513	Total: 482
Renewals Issued	Total: 1,375	Total: 1,531	Total: 1,572	Total: 1,779
Statement of Issues Filed	Total: 1	Total: 1	Total: 1	Total: 4
Statement of Issues Withdrawn	Total: 1	Total: 0	Total: 0	Total: 0
Licenses Denied	Total: 0	Total: 1	Total: 2	Total: 0

OTHER LICENSURE CATEGORIES (If Applicable)	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Total Licensees (By Type)	Total:	Total:	Total:	Total:
Supervising Physician	9,547	10,161	10,549	11,489
Training Program	94	102	109	114
Licenses Issued (By Type)	Total:	Total:	Total:	Total:
Supervising Physician	1,613	1,486	1,472	838
Training Program	10	8	7	5
Renewals Issued (By Type)	Total:	Total:	Total:	Total:
Supervising Physician	3,652	3,871	4,401	3,661
Training Program	*	*	*	*
*(Notes) * PA Training Programs do not renew (non-renewable license)				

BUDGET AND STAFF

Current Fee Schedule and Range

Discuss which fees are the main source of revenues, when renewal is required, date of last fee(s) adjustment, and if any plans to increase fees and for what reasons. List all fees.

Physician Assistant Supervisor fees have provided approximately 60% of the PAC revenue. However, these fees will no longer be collected after July 1, 2001. As a result, initial and renewal fees for PAs will provide funding for PAC activities.

The last fee increase was July 1, 2000 when initial license fees went from \$100 to \$150 and renewal fees went from \$150 to \$250. The next fee increase will be July 1, 2002 when renewal fees go from \$250 to \$350. This increase is necessary because of the loss of revenue from PA Supervisor fees.

Fee Schedule	Current Fee	Statutory Limit
Initial Application Fee	\$ 25	\$ 25
Initial License Fee	\$150	\$250
Biennial Renewal Fee	\$250*	\$300
Delinquency Fee	\$ 25	\$ 25
Supervising Physician Application Fee	\$ 0**	\$ 50
Supervising Physician Approval Fee	\$ 0**	\$250
Supervising Physician Biennial Renewal Fee	\$ 0**	\$300
Duplicate License Fee	\$ 10	\$ 10
License Verification Letter Fee	\$ 10	\$ 10
Training Program Application Fee	\$ 5*	\$500
Training Program Approval Fee	\$ 5*	\$100

* Effective July 1, 2001

**Effective July 1, 2001, supervising physicians are no longer required to obtain approval to supervise a physician assistant.

Revenue and Expenditure History

Provide brief overview of revenues and expenditures.

Comparison of Revenues and Expenditures: [See Table Below]

REVENUES	ACTUAL				PROJECTED	
	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
Licensing Fees	\$653,000	\$696,000	\$760,000	\$699,000	\$521,000	\$634,000
Fines & Penalties	0	\$ 1,500	\$ 1,100	\$ 2,000	\$ 2,000	\$ 2,000
Other	0	\$265,000*	0	\$ 85,000*	0	0
Interest	\$ 69,000	\$ 77,000	\$ 87,840	\$110,000	\$ 86,000	\$ 73,000
TOTALS	\$722,000	\$1,039,000	\$849,100	\$896,000	\$609,000	\$709,000

- The PAC received repayment (with interest) for using its funds to assist in balancing the State budget.

EXPENDITURES	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
Personnel Services	\$277,000	\$276,000	\$260,000	\$304,000	\$316,700	\$332,000
Operating Expenses	\$487,000	\$497,000	\$512,000	\$539,000	\$539,300	\$566,000
(-) Reimbursements	\$<39,000>	\$<44,000>	\$<54,000>	\$<35,000>	\$<25,000>	\$<25,000>
(-) Distributed Costs	0	0	0	0	0	0
TOTALS	\$725,000	\$729,000	\$718,000	\$808,000	\$856,000	\$873,000

With fees from PA supervisors providing approximately 60% of the PAC revenue, with their elimination on July 1, 2001, the PA fund condition will decline appreciably over the next 2-3 years. As previously noted, this may necessitate a future fee increase.

Expenditures by Program Component

Discuss the amounts and percentages of expenditures made by program components.
[See Table Below]

EXPENDITURES BY PROGRAM COMPONENT	FY 97-98	FY 98-99	FY 99-00	FY 00-01	Average % Spent by Program
Enforcement	\$518,000	\$538,500	\$520,400	\$592,000	68.9
Examination	0	0	0	0	0
Licensing	\$147,200	\$132,200	\$153,000	\$120,500	17.5
Administrative	\$92,900	\$94,700	\$95,500	\$105,500	12.3
Diversions (if applicable)	\$6,900	\$7,500	\$3,100	\$25,000	1.3
TOTALS	\$764,000	\$ 773,000	\$ 772,000	\$ 843,000	

Approximately 69% of the PAC budget is used for enforcement activities. This compares similarly to other regulatory agencies. Because of increased enforcement actions, Enforcement expenditures increased appreciably for FY 00/01. PAC staff anticipate that Enforcement expenditures will continue to increase due to the increase in the number of complaints received. It is important to remember that a significant portion of PAC expenditures are paid to other agencies for services within the disciplinary process such as the Medical Board (for investigation), the Attorney Generals' Office (for attorneys), and the Office of Administrative Hearings (for Administrative Law Judges and court reporters).

Fund Condition

Discuss reserve level, spending trends, and if a mandated statutory reserve level exists.
Also whether deficit may occur and whether fee increase or reductions is appropriate.

Comparison of Revenues, Expenditures, and Reserves: [See Table Below]

ANALYSIS OF FUND CONDITION	FY 99-00	FY 00-01	FY 01-02 (Budget Yr)	FY 02-03 (Projected)	FY 03-04 (Projected)	FY 04-05 (Projected)
Total Reserves, July 1	\$1,503,000	\$1,662,000	\$1,750,000	\$1,503,000	\$1,339,000	\$1,149,000
Total Rev. & Transfers	\$ 849,000	\$ 896,000	\$ 609,000	\$ 709,000	\$ 701,000	\$ 701,000
Total Resources	\$2,352,000	\$2,558,000	\$2,359,000	\$2,212,000	\$2,040,000	\$1,850,000
Total Expenditures	\$ 718,000	\$ 808,000	\$ 856,000	\$ 873,000	\$ 891,000	\$ 909,000
Reserve, June 30	\$1,635,000	\$1,750,000	\$1,503,000	\$1,339,000	\$1,149,000	\$ 941,000
MONTHS IN RESERVE	22.7	24.5	20.7	18	15.5	12.4

While there is no mandatory revenue level, given the committee's small budget and limited revenue sources, 12 months would be a prudent level to cover unexpected expenses, especially expenses related to enforcement matters.

The PAC has enacted a number of cost saving measures (e.g., putting applications and laws and regulations on its web site) and will continue to implement further cost savings measures as they are identified to keep a fee increase to a minimum when needed.

LICENSURE REQUIREMENTS

Education, Experience and Examination Requirements

Discuss education, experience and examination requirements for all licensure categories which the board regulates.

The requirement for physician assistant licensure in California include:

- Be a graduate of a PA training program approved by the Accreditation Review Committee on Education for the Physician Assistant (ARC-PA) the committee, or of a U.S. or Canadian medical school.
- Take and pass the required licensing examination (Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants).
- Not be subject to denial of license (e.g. prior conviction of a crime substantially related the practice of a physician assistant, making false statements on the application, etc.).
- Pay all required fees.

There is currently no experience requirement.

Requirement (a) above creates a “second pathway” to licensure in addition to attending a physician assistant training program. This “second pathway” is by being a graduate of a U.S. or Canadian medical school. No physician assistant licenses have been issued using this method.

This method of licensure will be the focus of review by the committee for possible elimination.

The required examination is the Physician Assistant National Certification Examination (PANCE) administered by the National Commission on Certification of Physician Assistants (NCCPA). (ref. CCR 1399.507). The PANCE examination was administered once a year until the end of 1996. The PANCE is currently administered twice per year in April and October. In 2002 the PANCE will be administered during three extended testing windows. In 2002 the three extended testing windows will be: January 14 – March 15, May 15 – August 15, and September 3 – November 30.

Additionally, there is a provision of law for “interim approval” to practice as a physician assistant if an applicant has graduated from an approved physician assistant training program and is waiting to take the PANCE for the first time.

Physicians who wish to supervise physician assistants must have:

- A valid physician’s and surgeon’s license.
- Not be subject to disciplinary action.
- Pay all required fees.

All applications from physicians who have complaints, are under investigation, or subject to disciplinary action are forwarded the Medical Board of California for review and determination of whether an approval to supervise physician assistants should be issued or denied. The Medical Board then notifies the PAC of these decisions and the appropriate action is taken.

Per the JLSRC’s recommendation and committee concurrence, the PAC discontinued issuing approvals to supervise physician assistants on July 1, 2001

The effect of this change is that any California-licensed physician, except those who are expressly prohibited by the Medical Board of California from supervising physician assistants, will be able to supervise a physician assistants.

What does the Board do to verify information provided by the applicant regarding education and experience? What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

The PAC requires verification of documents for the licensing program. Verification is intended to prevent falsification of licensing documents. To ensure authenticity all documents verifying an applicant's training, examination status, out-of-state licensure, and disciplinary actions must be sent directly to the PAC from the respective agency rather than from the applicant.

All applicants are required to submit fingerprint cards or utilize the "Live Scan" electronic fingerprinting process in order to obtain criminal record clearance from the California Department of Justice and Federal Bureau of Investigation. Live Scan was recently implemented by the PAC. The Live Scan fingerprinting system allows applicants to have their fingerprints electronically transmitted to the Department of Justice. Clear results are generally received by the PAC within three days. Clearances from the traditional "wet print" fingerprint cards can take from four to six weeks to obtain information from the Department of Justice.

Two questions on the licensing application require the applicant to disclose under penalty of perjury any disciplinary actions, denials, or convictions related to licensing in other states. Applicants must also disclose any criminal convictions. One question on the application requires applicants to disclose if they have a medical condition that may impair their ability to safely practice as a physician assistant.

To further enhance consumer protection the physician assistant licensure application was revised to require that applicants disclose any pending convictions.

Applicants who have been licensed in other states as physician assistants or other health care categories must request that the respective agencies submit verification of license status and any disciplinary actions directly to the PAC for verification.

If the PAC is notified of any adverse information or criminal record, applicants must provide full explanations and copies of all applicable arrest and court documents. Upon review by committee staff, executive officer, and legal counsel, the PAC may deny the license. Applicants may appeal the decision and request a hearing before an administrative law judge.

Discuss passage rates for all examinations, whether there is legitimate justification for all exams, whether exams have had an occupational analysis performed and been validated and when, and the date of the next scheduled occupational analysis for each exam.

The PAC is mandated by law (3517 B&P) to "...require a written examination" and to see to it that, "...no physician assistant shall receive approval under this chapter without first successfully passing an examination given under the direction of the committee."
Additionally, "Examination for licensure as a physician assistant may be required by the PAC under a uniform examination system, and for that purpose the PAC may make such arrangements with organizations

furnishing examination material as may, in its discretion, be desirable.”

In Title 16, CCR 1399.507, the written examination for California physician assistant licensure is the Physician Assistant National Certifying Examination (PANCE) administered by the National Commission on Certification of Physician Assistants (NCCPA). The PANCE was created by the then National Board of Medical Examiners in order to provide a valid examination for the physician assistant profession.

The PANCE is used for all candidates, including those from out-of-state. There is no special state-level examination. Recently the NCCPA moved to a computer-based examination process with a wider number of testing sites provided by Sylvan Learning Centers. The examination is given twice per year (April and October). In 2002 the NCCPA will expand the testing dates to include three extended testing windows. These windows include: January 14 – March 15, May 15 – August 15, and September 3 – November 30.

The PANCE is graded by the NCCPA and national “passing” scores are established. Annually, the PAC “endorses” the examination, its grading process, and the established passing score. NCCPA notifies the candidates of their score and those scores become available and verifiable to the PAC as a requirement before licensure is granted.

The PANCE was originally based on a job analysis (practice analysis) completed by the National Board of Medical Examiners in 1972 and 1973. Revalidation studies were then conducted in the late 1970’ s and early 1980’s. The latest validation studies were jointly conducted in 1998 by the NCCPA and the Chauncey Group International of Princeton, New Jersey. This analysis examined the knowledge and skills area of the examination. Data from external sources were used by the panel of experts to update and revalidate the clinical problems and context. The practice analysis is done every five to seven years.

The NCCPA also evaluates the passing standard to ensure that it is valid. The passing standard is revalidated every three years using generally accepted criterion-referenced standard setting methodologies

Comparison of exam passage rates for all candidates for both a national exam (if applicable) and/or a California state exam(s) if provided: [See Tables Below]

PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION				
YEARS	NATION-WIDE		CALIFORNIA ONLY	
	TOTAL CANDIDATES	PASSAGE RATE	TOTAL CANDIDATES	PASSAGE RATE
1997	3,736	80.7%	*	*
1998	4,154	87.1%	*	*
1999	4,478	82.4%	*	*
2000	4,880	83.0%	*	*
*Information not available . Statistics based on calendar year.				

Discuss any increase or decrease in average time to process applications, provide exam and issue license. [See Table Below]

The PAC has no automated way of extracting data regarding the average time to process applications. The typical applicant graduates from a physician assistant training program in June, takes the PANCE examination in October, receives their exam results by December and is issued a license in late December or early January, subject to completing the licensing process. Therefore, the average time elapsed from the applicant's completion of the examination to receipt of licensure is optimally ten weeks. Additionally, the average time to process and application is dependent upon the receipt of required licensure documents. The applicant is responsible for ensuring that these documents are received by the PAC.

Continuing Education/Competency Requirements

Discuss briefly: changes made by the Board since last review to assure competency. How does the Board verify CE or other competency requirements?

There are currently no continuing education (CE) requirements for California physician assistant licensure renewal.

The PAC does not to require continuing education for California-licensed physician assistants for several reasons:

- There has been no study to our knowledge on any health profession that demonstrate a correlation between “formal” contemporary continuing education programs and actual competence in practice.
- Both former and present members of the PAC continue to believe that requiring continuing education may discriminate against and discourage those physician assistants who work in underserved areas for lower wages. Any fees and costs for continuing education units and the travel expenses attendant to them do not vary according to ability to pay.
- As a dependent medical provider, the physician assistant is always learning from the supervising physician. Ultimately, the physician supervisor is responsible for the continued care of the patient. Thus, it is in the best interest of the supervising physician to ensure that their physician assistant is adequately trained and competent to practice.

Additionally, physician assistants working in hospital situations must obtain “hospital privileges” wherein all medical tasks to be performed by the physician assistant are evaluated through peer review and/or quality review by either a hospital medical staff committee or an Interdisciplinary Practice Committee.

Many supervising physicians and large medical practices now require their physician assistants to maintain national certification that requires them to maintain continuing medical education units.

Finally, statistics from the National Commission on Certification of Physician Assistants (NCCPA) indicate that approximately 3,030 PAs who show a California address are nationally certified by the NCCPA. This certification requires PAs to take 100 units of continuing education every two years.

Comity/Reciprocity With Other States

Discuss briefly: temporary licensing process, or any other methods used to facilitate licensing of those from other states or foreign countries. Any anticipated changes or changes made since last review?

Currently, there is no reciprocity with other states or countries. All applicants are required to meet California requirements for licensure. International issues of reciprocity do not arise since other countries do not license physician assistants. The PAC does not anticipate any changes to the current methods of licensure.

International medical graduates have the option of obtaining licensure via the “second pathway,” in which the applicant graduates from a U.S. or Canadian medical school.

ENFORCEMENT ACTIVITY

ENFORCEMENT DATA	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Inquiries	Total: NDA	Total: NDA`	Total: NDA	Total: NDA
Complaints Received (Source)	Total: 120	Total: 98	Total: 126	Total: 115
Public	68	64	60	56
Licensee/Professional Groups	14	12	14	25
Governmental Agencies ¹	28	20	45	30
Other ²	10	2	7	4
Complaints Filed (By Type)³	Total: 120	Total: 98	Total: 126	Total: 115
Competence/Negligence	57	52	57	48
Unprofessional Conduct	11	13	13	32
Fraud	3	0	3	2
Health & Safety	0	0	0	0
Unlicensed Activity	16	14	10	13
Personal Conduct	32	17	42	18
Complaints Closed	Total: 120	Total: 94	Total: 109	Total: 135
Investigations Commenced	Total: 41	Total: 38	Total: 65	Total: 58
Compliance Actions	Total: 9	Total: 16	Total: 9	Total: 8
ISOs & TROs Issued	0	2	0	0
Citations and Fines	2	10	8	8
Public Letter of Reprimand	0	2	0	0
Cease & Desist/Warning	7	2	0	0
Referred for Diversion	0	0	0	0
Compel Examination	0	0	1	0
Referred for Criminal Action	Total: 2	Total: 1	Total: 1	Total: 2
Referred to AG's Office	Total: 18	Total: 10	Total: 15	Total: 19
Accusations Filed ⁴	14	7	8	12
Accusations Withdrawn	1	0	0	0
Accusations Dismissed	0	0	0	0
Stipulated Settlements	Total: 9	Total: 10	Total: 5	Total: 10
Disciplinary Actions	Total: 13	Total: 10	Total: 6	Total: 12
Revocation	3	0	0	1
Voluntary Surrender	3	2	2	4
Suspension Only	0	0	0	0
Probation with Suspension	3	3	0	3
Probation	4	3	4	4
Probationary License Issued	0	0	0	0
Probation Violations	Total: 0	Total: 1	Total: 2	Total: 1
Suspension or Probation	0	1	2	0
Revocation or Surrender	0	0	0	1

¹ Includes complaints based on reports required by Business and Professions Code section 800.

² Includes anonymous and miscellaneous complaints.

³ Breakdown does not include "non-jurisdictional" or "other" categories. As a result, the breakdown will not total

number of complaints filed.

⁴Includes Petitions to Revoke Probation and Accusations and Petitions to Revoke Probation.

Enforcement Program Overview

The PAC has the responsibility of enforcing the disciplinary and criminal provisions of the Physician Assistant Laws and Regulations. These duties include:

- the administration and hearing of disciplinary actions.
- carrying out disciplinary actions appropriate to the findings made by the PAC or an administrative law judge.
- suspending, revoking, or placing other restrictions on a PAC license after the conclusion of disciplinary action.
- reviewing the quality of medical practice performed by the licensees.

The PAC uses the Medical Board of California's (MBC) enforcement unit to handle its complaints, investigations, and probation monitoring under a shared-services reimbursement agreement. The mission of the MBC's Field Operations Unit is to provide accurate, timely and objective investigations regarding allegations of misconduct by licensees of the MBC and other health professionals and to develop information for filing criminal, administrative, and civil actions.

The PAC strives to review and investigate allegations of misconduct by its licensees in a timely manner. However, in order to proceed with disciplinary action, the PAC must adhere to the requirements of the Administrative Procedure Act and prove the violations to a clear and convincing standard. The MBC staff pursues each step of the investigative and disciplinary processes with the objective of ensuring investigations are completed expeditiously, accurately, and objectively. Like consumers, legislators, and the MBC, the PAC shares an interest in speedy justice, while adhering to the due process that must be accorded to its licensees. However, the public is often frustrated by the length of time it takes to complete the disciplinary process.

The enforcement process is complex and utilizes analytical, law enforcement, medical, legal expertise of the MBC and PAC, and uses the legal and judicial services provided by the Office of the Attorney General and the Office of Administrative Hearings.

Discuss statistics in enforcement data. What is the source of most of the complaints? Are there some unique reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report any judgments taken against the licensee. Any current problems with board's receiving relevant complaint information or obtaining information for investigation purposes? What are the largest number and type of complaints filed (incompetence, unprofessional conduct, etc.)? Explain which type of cases are being stipulated for settlement. Any significant changes since last review (increases or decreases)?

The PAC does not track the number of inquiries regarding physician assistants. Referencing the Enforcement Data table above, over the past four years, the PAC received an average of 115 complaint per year compared to 81 per year during the last sunset review (1993-1996). Approximately 54% of the complaints received are filed by the public relating to competence and/or negligence compared to 44% during the last sunset review (1993-1996).

A significant number of complaints are received from governmental agencies, such as the Department of Health Services and other state agencies. The PAC opens complaints based on criminal convictions substantially related to the qualifications, functions, or duties of a physician assistant. These complaints are referred to the MBC for processing and investigations.

Business and Professions Code section 800-series provides several reporting mandates for the Medical Board of CA and several other health professions to assist the boards in consumer protection. However, under current physician assistant laws, licensees, health plans, and health care facilities are not required to report unprofessional conduct by physician assistants (B&P section 800-series) or other violations by PA's but may do so voluntarily. If a B&P section 800-series report is received, the PAC does open a complaint and takes appropriate action.

The only reporting mandate that applies to physician assistants is B&P Code section 803.5 which requires that the district attorney, city attorney, and prosecuting agencies to notify the PAC immediately upon obtaining information of any filings charging a felony against a PAC licensee.

As noted later in this report, the PAC is considering seeking legislation to include physician assistants under the B&P Code section 800-series reporting requirements to enhance consumer protection.

Historically, the MBC on behalf of the PAC, has experienced significant problems obtaining documentation and information from the licensee, licensee's attorney, court clerks, prosecuting attorneys, and medical records from hospitals. Generally, the PAC is able to obtain the necessary records, however, this may result in delays during the investigation. The MBC investigator may need to use enforcement subpoenas to obtain records from hospitals or physicians, adding to the delay of the investigation.

The PAC filed 41 accusations during the past four years, the same number filed during the last sunset review period. Nearly every accusation filed over the past four years resulted in disciplinary action. The PAC continuously seeks innovative methods to intervene and act on disciplinary cases more effectively, cost efficiently and quickly while preserving the due process rights of the licensee or applicant.

The PAC may enter into stipulated agreements with specific terms and conditions in cases that warrant it. A voluntary surrender of a license is faster, less costly, and accomplishes the same goal as proceeding with an administrative hearing to revoke the license. The Executive Officer and Enforcement Coordinator work closely with the Deputy Attorney General in all administrative cases.

The PAC's primary concern is consumer safety and protection when reaching settlements in disciplinary cases. The PAC uses its Model Disciplinary Guidelines in negotiating stipulation

terms and conditions in order to ensure fair and consistent application of discipline. The PAC periodically review and modify the Model Disciplinary Guidelines to ensure they are up to date.

Discuss what percentage of complaints are referred for investigation, then to accusation, and end up having some disciplinary action taken. What overall statistics show as to increases or decreases in disciplinary action since last review. [See Table Below]

Over the past four years, approximately 50% of complaints filed are closed without a formal investigation. These include complaints that are non-jurisdictional (billing, fee, personality), referred to other agencies. Cases not sent to formal investigation may be reviewed by a PAC expert to determine whether or not the PA conduct meet the community standards of PA practice.

Over the past four years, approximately 44% (202 of 459 received) of complaints filed are referred to formal investigation, about the same percentage as the last sunset review. The PAC utilizes investigators from the MBC to conduct its investigations. The MBC investigators have knowledge of PA practices and medical cases since they also investigate physician complaints. Often cases against a physician and a physician assistant may be worked concurrently by the same investigator, saving time and enforcement costs.

Approximately 20% of investigations are referred to the Office of the Attorney General for filing of disciplinary action. These are the most serious cases that involve consumer harm due to negligence and/or incompetence or if the licensee poses a threat to the public safety. Less serious cases are resolved through other means such as a citation and fine, public reprimand, or warning notice.

It should be stressed that because of the time needed to process a complaint, conduct an investigation, and complete the disciplinary process, it is rare that all three stages are completed in the same fiscal year. It is much more likely that the stages will carry over from one fiscal year to another. As a result, the percentages expressed in the following table do not reflect the actual percentages of actions completed of the number of complaints received during each fiscal year. For example, it is a coincidence when the number of complaints received equals the number of complaints closed as they did in FY 1997/98. This carryover of workload also explains why there were more cases closed than received in FY2000/01.

NUMBER AND PERCENTAGE OF COMPLAINTS DISMISSED, REFERRED FOR INVESTIGATION, TO ACCUSATION AND FOR DISCIPLINARY ACTION				
	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
COMPLAINTS RECEIVED	120	98	126	115
Complaints Closed	120 – 100%	94 – 96%	109 – 87%	135 – 117%
Referred for Investigation	41- 34%	38 – 39%	65 – 52%	58 – 50%
Accusation Filed	14 – 12%	5 - 5%	8 – 6%	12 – 10%
Disciplinary Action	13 – 11%	10 – 10%	6 – 5%	12 – 10%

Case Aging Data

Discuss time frames for processing complaints, investigation of cases, from completed investigation to formal charges being filed, and from filing of the accusation to final disposition of the case. Discuss if any changes from last review. [See Table Below]

The complaint process has various stages. Complaints involving PAs are received by the MBC Central Complaint Unit and assigned to a staff person. MBC staff enter the complaint on the Consumer Affairs System (CAS) automated tracking system, which generates an acknowledgement letter for the complainant.

After the CCICU initially handles the complaint, it may be referred to a PAC expert consultant or to the MBC for investigation. The case is sent to one of the 12 MBC District Offices and becomes the responsibility of the district office staff to resolve and/or refer for administrative, criminal, or civil action with the approval of the PAC.

Referencing the Case Aging Table below, the complaint processing time has been significantly reduced since the last review:

- The average total number of days to close a complaint from receipt, investigation, and disciplinary action decreased from **1055** days during the last sunset review (1993-1996) to **820** days (1997-2000).
- The average number of days to close a complaint from receipt, investigation, and disciplinary action from decreased during the past four years from **911** in 1997 to **597** in 2000.
- The overall average time to close complaints with or without investigation decreased from **247** days during the last sunset review (1993-1996) to **179** days during 1997-2000.
- The average processing time to close complaints without investigation decreased from **127** during 1993-1996 to **84** days during 1997-2000 despite the increase in the number of complaints filed (81 during the last sunset review (1993-1996) to 115 during 1997-2000).
- The average time for the completion of an investigation decreased from **240** days during the last sunset review (1993-1996) to **197** days during the past 3 years.

The disciplinary action processing time has decreased since the last review:

- The average number of days to complete disciplinary action (pre and post accusation) decreased from **702** days the last sunset review (1993-1996) to **458** days (1997-2000). Over the past four years, the average number of days for pre-accusation filing is 100 days and post-accusation filing is 356 days.

As indicated previously, the PAC contracts with the Medical Board of CA's enforcement unit to handle its complaints and investigations. However, the PAC continually monitors the progress of its cases and the number of hours used on each case during the investigative and disciplinary stages.

AVERAGE DAYS TO PROCESS COMPLAINTS, INVESTIGATE AND PROSECUTE CASES				
	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Complaint Processing	74	108	82	70
Investigations	310	197	173	221
Pre-Accusation*	137	97	101	67
Post-Accusation**	390	308	397	336
TOTAL AVERAGE DAYS***	876	877	928	597
<p>*From completed investigation to formal charges being filed. **From formal charges filed to conclusion of disciplinary case. ***From date complaint received to date of final disposition of disciplinary case: The numbers are not the sum because the disciplinary cases finalized in the fiscal year may or may not be the same as the complaints or accusations filed in that same year.</p>				

Discuss time frames for closing of investigations and AG cases over past four years, and average percentage of cases taking over 2 to 4+ years, and any decreases or increases in the percentage of cases being closed each year. Discuss any changes from last review. [See Table On Next Page]

Complaint processing and investigations comprise the majority of the PAC's enforcement actions. An investigation may be closed without formal action, with a citation and fine or warning notice, public reprimand, or referred to the Office of the Attorney General for disciplinary action.

During the past four years, the efficiency of the MBC investigation process and AG disciplinary processes has significantly improved. The time frames for completing an investigation and disciplinary action have decreased as follows:

- **81%** of investigations were completed within 1 year compared to **69%** during the last sunset review (1993-1996).
- **53%** of investigations were closed within 6 months compared to **31%** during the last sunset review (1993-1996).
- The average number of investigations closed per year increased from **46** during the last sunset review (1993-1996) to **52** during 1997-2000.
- **87%** of disciplinary cases were completed within 2 years during 1997-2000. Only 5 cases have taken 3 years to complete and 2 have taken more than 3 years. During the last sunset review (1993-1996), 7 cases took 3 years to complete and 8 took more than 3 years.

Factors that contribute to delays in completing cases include on or a combination of the following:

- the number of complaints filed against the licensee
- the seriousness of the complaint
- investigator workload
- simultaneous filing of criminal action
- additional investigation required on the disciplinary case
- serving the respondent.

- locating and subpoena of witnesses
- negotiations stipulations
- the deputy attorney general workload
- scheduling a hearing, and hearing continuances

INVESTIGATIONS CLOSED WITHIN:	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	AVERAGE % CASES CLOSED
90 Days	15	15	14	16	29%
180 Days	9	4	19	19	24%
1 Year	17	10	7	24	28%
2 Years	10	7	6	10	16%
3 Years	4	0	0	2	3%
Over 3 Years	1	0	0	0	Less than 1%
Total Cases Closed	56	36	46	71	
AG CASES CLOSED WITHIN:	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	AVERAGE % CASES CLOSED
1 Year	9	6	5	8	51%
2 Years	8	4	5	3	36%
3 Years	1	1	1	2	9%
4 Years	0	1	0	0	2%
Over 4 Years	1	0	0	0	2%
Total Cases Closed	19	12	11	13	
Disciplinary Cases Pending	15	13	16	15	

Cite and Fine Program

Discuss the extent to which the board has used cite and fine authority. Discuss any changes from last review and last time regulations were updated. [See Table Below]

The PAC established its citation and fine program pursuant to Business and Professions Code sections 125.9 and 3510 effective March 1996. California Code of Regulations sections 1399.570 through 1399.574 authorize the executive officer to issue citations with or without fines and orders of abatement. The executive officer has discretion in issuing multiple fines and in the amount of the fine levied based on the number of violations, seriousness of the violation(s), damage or injury caused by the violation(s), and history of previous violations. Fines range from \$100 to \$2500.

The Citation and Fine Program is a useful tool to educate physician assistants regarding the laws and regulations and address cases that are not serious enough to warrant formal discipline. The Citation and Fine Program is an alternative method by which the PAC may impose a sanction and take enforcement action against a licensee who is found to be in violation of the physician assistant laws or regulations.

The PAC issued an average of 8 citations per year during the past 3 years. The previous executive officer determined that few complaints warranted issuing citations and fines. The current executive officer reviewed the citation and fine program and regulations and has initiated a practice of issuing fines appropriate for the violation(s).

The PAC reviewed the citation program and determined that the current regulations continue to meet the needs of the program. The PAC will continue to review the citation and fine regulations to ensure that it can ensure consumer protection.

CITATIONS AND FINES	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Total Citations	2	10	8	8
Total Citations With Fines	0	3	3	2
Amount Assessed	0	2500*	1100*	2000*
Reduced, Withdrawn, Dismissed	1	4	4	2
Amount Collected	0	1500	2000	0

* Citations and fines issued in one fiscal year may carry over to the next fiscal year. Citations and fines may be modified/reduced after appeal by licensee.

Diversion Program (If Applicable)

Discuss the board's diversion program, the extent to which it is used, the outcomes of those who participate, the overall costs of the program compared with its successes. [See Table Below]

The committee has been granted the authority to operate a drug and alcohol diversion program (B&P 3534 et seq.) The program is administered by Managed Health Network (MHN). The goal of the program is to identify and rehabilitate licensed physician assistants whose competency is impaired due to the use of dangerous drugs or alcohol. Treatment and rehabilitation are sought in order that these impaired practitioners may return to practice in a manner which will not endanger the public health and safety.

The costs of the program are borne by both the physician assistants participating in the program and the committee. All costs for participation in the program are borne by the physician assistant.

In the committee's program, licensees enter voluntarily or are referred by the committee as part of the disciplinary process. Participants are evaluated and a treatment plan is developed. As part of the program, suspension from practicing may be included.

The participant is continuously evaluated with regard to compliance with their rehabilitation and treatment plan. If a participant fails to comply with terms of their plan and found to create a risk to the public health and safety they are reported by MHN to the committee's executive officer. The matter may then be referred for investigation and disciplinary action.

The committee communicates the existence of the diversion program via several methods:

- An informational brochure is sent to all newly licensed physician assistants.
- Brochures are distributed at various conferences attended by physician assistants.
- Committee staff make presentations at California physician assistant training programs and discuss the program.
- Information about the program is mentioned in the committee's newsletter.
- Program information is contained on the committee's website.

Participants are generally in the program for approximately five years. Participants are evaluated prior to completion of the program to ensure that they are in compliance with all terms of their contract and are rehabilitated.

The PAC Diversion Program is unique in that the PAC contracts with a private firm to provide services to PAs with alcohol or drug dependency problems. While the average cost of these services for the past four years was approximately \$10,200 per year, the PAC believes that this money was well spent because it provides consumer protection since PAs can seek treatment either voluntarily or as part of a probation requirement. Moreover, the PAC staff is alerted should a PA fail to successfully complete the program. With this warning staff is able to take appropriate action that ensures public protection. With this program, consumers are better protected from PAs whose practice may be compromised because of alcohol or drug dependency problems.

DIVERSION PROGRAM STATISTICS	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Total Program Costs	6,725	7,485	3,088	23,710
Total Participants	8	9	9	12
Successful Completions	1	1	2	0
Unsuccessful Completions	2	0	5	5

Results of Complainant Satisfaction Survey

Discuss the results of the Survey. [See Table Below]

As requested by the JLSRC, the PAC mailed 163 consumer satisfaction surveys to consumers regarding the way their complaint was handled by the PAC.

Out of the 163 surveys mailed, 82 surveys were returned, approximately a 50% return rate. Unfortunately, due to the small response rate from the previous sunset review, it is difficult to compare this survey results with the previous survey results.

Over the past 4 years:

- 87% were satisfied in knowing where to file a complaint.
- 78% were satisfied with the way they were treated and how the complaint was handled.
- 73% were satisfied with the information and advice given on the handling of the complaint.

- 73% were satisfied with the way the PAC kept them informed of the status of their complaint.
- 73% were satisfied with the time it took to process their complaint.
- 61% were satisfied with the outcome.
- 74% were satisfied with the overall service provided by the PAC.

The area that received the lowest satisfaction rating was the satisfaction complainants had with the outcome of their complaint. This can be expected since the action complainants sought, generally disciplinary action against the PA, probably did not happen. In order for the PAC to pursue disciplinary action, clear and convincing evidence must be obtained. In some cases, there may be insufficient evidence to confirm that a violation of the law has occurred and the PAC is unable to proceed with disciplinary action.

CONSUMER SATISFACTION SURVEY RESULTS*				
QUESTIONS	Percent Satisfied by Calendar Year			
# Surveys Mailed: 163 # Surveys Returned: 82	1997	1998	1999	2000
1. Were you satisfied with knowing where to file a complaint and whom to contact?	85%	96%	82%	84%
2. When you initially contacted the Board, were you satisfied with the way you were treated and how your complaint was handled?	80%	85%	64%	84%
3. Were you satisfied with the information and advice you received on the handling of your complaint and any further action the Board would take?	80%	84%	64%	63%
4. Were you satisfied with the way the Board kept you informed about the status of your complaint?	75%	79%	64%	74%
5. Were you satisfied with the time it took to process your complaint and to investigate, settle, or prosecute your case?	75%	84%	55%	79%
6. Were you satisfied with the final outcome of your case?	70%	51%	55%	68%
7. Were you satisfied with the overall service provided by the Board?	75%	79%	64%	79%
<p>*All boards and committees under review this year shall conduct a consumer satisfaction survey to determine the public's views on certain case handling parameters. (The Department of Consumer Affairs currently performs a similar review for all of its bureaus.) A list of seven questions have been provided. Each board or committee shall take a random sampling of closed complaints and disciplinary actions for a <u>four year period</u>. Consumers who filed complaints should be asked to review the questions and respond to a 5-point grading scale (i.e., 5, 4, 3 =satisfied to 1, 2 =dissatisfied). The board or committee shall provide the percent of satisfaction for each of the past four years.</p>				

ENFORCEMENT EXPENDITURES AND COST RECOVERY

Average Costs for Disciplinary Cases

Discuss the average costs incurred by the board for the investigation and prosecution of cases, and which type of cases average more than others. Explain if the board is having any difficulty in budgeting for Prosecution and Hearing costs, and whether cases may have been delayed because of cost overruns. [See Tables on Next Page]

Over the past four years, the average cost of an investigation and expert review was \$1,885. The average cost was derived by dividing the total of the investigation and expert expenditures by the total number of investigations closed. It should be noted that the average cost may not accurately reflect the average cost of an investigation. Many complaints not sent to formal investigation are reviewed by a PAC expert.

The investigation costs vary depending on the complexity of the complaint. Most cases have a hours-per-case limit that allows the PAC enforcement staff to be kept informed of the progress of the case and assess its severity at key points in the process. Most cases are initially limited to 10-20 hours, with additional hours granted by the executive officer based on the justification provided by the investigator. Investigators must contact the executive officer to request prior approval of additional time to complete the case. The approval of additional time ensures that complex or wide-ranging situations are investigated adequately to ensure that the PAC fulfills its consumer protection obligation.

The expert consultant review cost also varies significantly depending on the complexity and length of the investigation and medical records. An expert consultant from the MBC or PAC reviews many investigation cases. While the MBC investigators are well trained and competent, issues may arise relating specifically to PA practices and conduct during the investigation. In these situations, the expert consultant can determine whether or not the PA complied with the established community standards of care regarding patient health and safety.

Over the past four years, the average cost on prosecuting a case was \$5,053. The Attorney General cost varies depending whether or not the case proceeds to an Office of Administrative hearing. Cases settled by a stipulated agreement cost significantly less than those that proceed to hearing since they incur the additional Office of Administrative Hearing costs. Additional AG costs are also incurred if the respondent appeals the decision of the disciplinary action.

The PAC carefully monitors and reviews the enforcement expenditures. The PAC has not experienced any difficulty in budgeting for prosecution and hearing costs. However, one lengthy case or appeal of a decision could potentially deplete the enforcement budget.

AVERAGE COST PER CASE INVESTIGATED	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Cost of Investigation & Experts	\$82,279	\$79,440	\$110,797	\$121,491
Number of Cases Closed	56	36	46	71
Average Cost Per Case	\$1,469	\$2,207	\$2,409	\$1,711
AVERAGE COST PER CASE REFERRED TO AG	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Cost of Prosecution & Hearings	\$67,719	\$84,017	\$49,467	\$102,027
Number of Cases Referred	16	10	15	19
Average Cost Per Case	\$4,232	\$8,402	\$3,298	\$5,370
AVERAGE COST PER DISCIPLINARY CASE	\$5,701	\$10,609	\$5,707	\$7,081

Cost Recovery Efforts

Discuss the board's efforts in obtaining cost recovery. Discuss any changes from the last review. [See Table Below]

The PAC requests cost recovery in every disciplinary action filed. Cost recovery is a part of the terms and conditions in all cases where the licensee is placed on probation. Cost recovery is ordered in cases resulting in license surrender or revocation, however, generally the PAC is unable to collect the cost recovery in these cases unless the subject petitions for reinstatement. The PAC works with the licensee to develop a payment plan for the cost recovery, however, the cost recovery must be paid in full prior to the end of probation.

During 1997-2000 the amount of cost recovery ordered and obtained has significantly increased from the previous review as follows:

- **\$93,461** cost recovery ordered during 1997-2000 compared to **\$23,562** during 1993-1996.
- **\$66,941** cost recovery collected during 1997-2000 compared to **\$4,500** during 1993-1996.

COST RECOVERY DATA	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01
Total Enforcement Expenditures	\$149,998	\$163,456	\$160,264	\$223,518
# Potential Cases for Recovery*	13	12	6	12
# Cases Recovery Ordered	8	10	4	6
Amount of Cost Recovery Ordered	\$36,837	\$31,412	\$4,500	\$20,712
Amount Collected	\$15,470	\$22,921	\$14,484	\$14,066

*The "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on a violation, or violations, of the License Practice Act.

RESTITUTION PROVIDED TO CONSUMERS

Discuss the board's efforts in obtaining restitution for the individual complainant, and whether they have any formal restitution program and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Discuss any changes from last review. [See Table Below]

The PAC does not request restitution for consumers for damages done to individual consumers. The consumer has the option of seeking civil remedies, such as the civil malpractice system to obtain compensation for damages for harm committed by a physician assistant.

Enforcement staff may mediate complaints between patients and the physician assistants on minor technical issues, they cannot act as mediators to obtain restitution for serious damages caused by medical malpractice, such as wrongful death or loss of bodily function.

COMPLAINT DISCLOSURE POLICY

Briefly describe the board's complaint disclosure policy. At what point in the disciplinary process is information made available to the public concerning the licensee and what type of information is made available? Does the board have problems obtaining particular types of information? [See Table Below]

The PAC operates under the same disclosure laws as the Medical Board of California. The following table indicates what is disclosed as public information.

TYPE OF INFORMATION PROVIDED	YES	NO
Complaint Filed		X
Citation	X	
Fine	X	
Letter of Reprimand	X	
Pending Investigation		X
Investigation Completed		X
Arbitration Decision	X	
Referred to AG: Pre-Accusation		X
Referred to AG: Post-Accusation	X	
Settlement Decision	X	
Disciplinary Action Taken	X	
Civil Judgment		X
Malpractice Decision		X
Criminal Violation:		
Felony		X
Misdemeanor		X

CONSUMER OUTREACH, EDUCATION AND USE OF THE INTERNET

Discuss what methods are used by the board to provide consumer outreach and education.

Information about the PAC is provided through:

- a toll-free telephone number (800-555-8038) placed in most California telephone directories;
- PAC's newsletter;
- information provided to state depository libraries;
- speaking engagements by PAC members and staff;
- press releases;
- telephone responses;
- written and FAX inquiries;
- e-mail and PAC Web site; and
- health care fairs.

In addition to these diverse means of communication and outreach, the PAC publishes a brief brochure entitled "What is a Physician Assistant?" (in both English and Spanish) to educate consumers on making informed decisions when seeking services from Physician Assistants and how to contact the PAC.

Discuss whether the board offers online information to consumers about the activities of the board, where and how to file complaints, and information about licensees, or believes it is feasible/appropriate to do so.

The PAC believes strongly that offering information online is crucial to informing consumers about all aspects of the PAC, especially consumer protection issues. That is why the PAC web site (www.physicianassistant.ca.gov) contains the following information:

License Verification - this site allows anyone, free of charge to look up a physician assistant (by name or license number) and obtain the related license status, which includes any disciplinary action codes, address of record, license issuance and expiration dates, and the physician assistant training program attended and the year of graduation.

Complaints - this site allows anyone to complete a form that they can then print and mail to the Medical Board Central Complaint Unit;

Consumer Information - this site provides anyone with a copy of the PAC newsletter as well as a copy of the brochure "What is a Physician Assistant?" in both English and Spanish.

The PAC web site also provides dates and locations for its meetings so consumers who wish to attend will know when and where the meetings are and what the PAC agenda items are.

The PAC also provides its e-mail address at this site so consumers may ask questions when their schedule permits.

Discuss whether the board conducts online business with consumer/licensees, or believes it is feasible/appropriate to do so.

The PAC does not currently have the capability of initiating online business efforts. However, pursuant to the Governor's Executive Order D-17-00 on eGovernment, the Department of General Services will be implementing online credit card payments for all state agencies. The Board of Registered Nursing has been piloting the program for DCA. Depending on its success, other boards may be added during 2001. The PAC has informed DCA web personnel of its interest to participate in the program.

Discuss whether the board offers online license information and applications (initial and renewal licenses, address changes, etc.), or believes it is feasible/appropriate to do so.

The PAC offers the following online information to its applicants:

- License application information and forms. These forms may be completed online, downloaded and mailed to the committee. Applicants must still mail the licensing application to the PAC as we have not found a feasible way to handle electronic signatures and a picture of the applicant.

A new web site (available in late September 2001) will include information about renewal licenses and address changes.

Discuss whether the board offers online testing/examination services for both initial and renewal licenses, or believes it is feasible/appropriate to do so.

Since the PAC does not administer the written examination required for licensure, it does not offer online testing. However, the PAC does provide a link on its website to the testing organization, the National Commission on the Certification of Physician Assistants.

As stated previously, the Board of Registered Nursing is conducting a pilot study to determine the feasibility of online renewals. If the study proves that online renewals are feasible, the PAC will participate.

What streamlining of administrative functions would be necessary if the above services and information was provided via the Internet?

The PAC offers its licensing application online and has experienced minimal in-house administrative streamlining. If online renewal transactions were available, there would be a significant amount of streamlining with DCA's Automated Cashiering Unit since this unit processes renewals for all of the boards, bureaus, and committees within DCA.

Please describe if there are other ways use of the Internet by the board could improve services to consumers/licensees.

The PAC has improved its services to consumers, applicants, licensees, and physician assistant supervisors through its web site. All parties now have immediate worldwide access 24 hours a day, 7 days a week to information about the committee as well as access to PAC staff. The PAC is interested in any new uses of the Internet that will improve the quality of its services to consumers, applicants, licensees, and physician assistant supervisors.

Discuss what types of practices are increasingly occurring outside California's traditional "marketplaces" that fall under the jurisdiction of your board.

Currently, the PAC is not aware of any PA practices that are occurring outside California's traditional "marketplaces" that fall under the jurisdiction of the PAC.

Discuss what type of challenges the board faces with respect to online advice "practice without presence," privacy, targeted marketing, and other issues.

As the PAC has not receive any complaints concerning these matters, the challenges are unknown.

Discuss whether the board has any plans to regulate Internet business practices or believes there is a need to do so.

The PAC will follow DCA and MBC policies and procedures as they take effect.

2.

COMMITTEE'S RESPONSE TO ISSUES IDENTIFIED AND FORMER RECOMMENDATIONS MADE BY THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE

ISSUE #1. Should the State licensing of physician assistants be continued?

Recommendation: *Both the Department and Committee staff recommended that the licensing and regulation of physicians' assistants by the State of California be continued.*

PAC RESPONSE:

As the Joint Committee stated in its last report:

"Regulation of the Physician Assistant (PA) profession is made necessary by the critical roles performed by physician assistants, and the potential for serious harm to the public's life, health, and safety if the practice of a physician assistant is performed by an unqualified or incompetent practitioner. PAs provide primary health care and specialty health care-related services to their patients. Such practice requires a high degree of education, training, and experience. Even though supervised by physicians, they can perform any medical services which they are competent to perform and which are consistent with their education, training, and experience, and which are delegated in writing by a supervising physician. Procedures, treatment, and diagnosis can be performed without the presence of the supervising physician as long as the PA consults with the supervising physician, who is ultimately responsible for the patient's care. In effect, the physician assistant stands in the shoes of the physician in performing a variety of medical services. All but one state regulate PAs."

There are now three new PA training programs in California and over 50% more PAs since the last Sunset Review review. With an ever increasing number of consumers who need primary health care and a growing number of PAs to address this need, it becomes vitally important for consumer protection for the PAC to continue regulating this health care profession as is done in 48 other states.

ISSUE #2. Should the scope of practice for physician assistants be expanded to include precriptive authority to provide for more effective utilization of physician assistants by physicians as recommended by the PAC?

Recommendation: *Both the Department and Committee staff recommended that all proposals to further expand the scope of physician assistants practice should be evaluated on a case-by-case basis and subjected to the requirement of “sunrise” review. However, Committee staff recommends that the Legislature should give careful consideration to expanding the current authority of physician assistants, which currently only allows the transmittal of prescriptions.*

PAC RESPONSE:

Much of this concern was addressed when Senate Bill 816 (Escutia, Chapter 749, Statutes of 1999) gave PAs the ability to obtain their own DEA numbers and issue drug orders under provisions of the Business and Professions Code and the Health and Safety Code.

ISSUE #3. Should the alternative path to licensure, which allows graduates of medical schools to become physicians, be eliminated as recommended by the PAC?

Recommendation: *The Sunset Review Committee and the Department offered no recommendation. Sunset Review Committee staff stated that the PAC should provide further evidence on the impact, if any, of this change to international medical graduates (IMGs) and what steps could be taken to assure fair treatment of IMGs in meeting the requirements for licensure as a physician assistant.*

PAC RESPONSE:

The PAC stands by its previous recommendation which was that there be a single educational pathway to licensure. The current law, Section 3519 of the California Business and Professions Code, allows an alternative licensing pathway to physicians who have graduated from an approved U.S or Canadian medical school. Such an approach ignores the complexity and sophistication of current PA practice. It is important to note that no graduate of a medical school has ever applied for and been licensed as a PA in California.

It should also be noted that any person who did pursue this pathway would not be allowed to sit for the written licensing examination as the National Commission on Certification of Physician Assistants will not allow anyone to take the examination if they have not graduated from an accredited PA training program. As a result, this alternative pathway would not permit licensure in California.

Since no one has ever pursued this licensure pathway any applicant who did pursue licensure in this manner would not be eligible for taking the written examination required for licensure, the PAC will seek legislation to eliminate this pathway.

With respect to international medical graduates (IMGs), the law is clear that they must complete an approved PA training program and complete the written examination.

ISSUE #4. Should limited liability provisions and Good Samaritan laws be extended to physician assistants as recommended by the PAC?

Recommendation: *Both the Department and Committee staff concurred with the recommendation of PAC.*

PAC RESPONSE:

Sunset Review legislation (SB 1981, Greene, Statutes of 1998, Chapter 736) made the recommended changes.

ISSUE #5. Should the PAC still be required to approve supervising physicians of physician assistants?

Recommendation: *The Department did not address this issue. Committee staff recommended that the requirement for PAC to approve supervising physicians sunset within two years. In the meantime, the PAC and the Medical Board should evaluate whether there would be any impact on a physicians ability to properly supervise a PA without approval, and what budgetary changes may be necessary if the fee for the supervising physician is no longer required.*

PAC RESPONSE:

Legislation from the previous Sunset Review (SB 1981, Greene, Chapter 736, Statutes of 1998) removed this requirement. Physicians no longer need to submit an application, pay fees or receive Medical Board of California approval to supervise a PA.

The PAC and the Medical Board of California are working closely together to ensure that supervising physicians know what is required to supervise a PA so continued consumer protection is assured. The PAC is also working closely with DCA Budget staff to determine when a fee increase will be needed and how much that fee increase must be in order to maintain the current level of public protection.

ISSUE #6. Should supervising physicians be allowed to supervise four physician assistants rather than just two as recommended by the PAC?

Recommendation: *The Department did not address this issue. Committee staff concurred with the recommendation of PAC to allow physicians to supervise at least four physician assistants, as long as the supervising physician and physician assistants are not involved in a more complicated medical specialty.*

PAC RESPONSE:

As noted in the previous Sunset Review report, current law allows a physician to supervise only 2 PAs. The PAC still believes that the ratio of supervisor to PA could be safely increased to a ratio of 4 PAs to 1 physician as is allowed in other states.

Given that many PAs come from a diverse and multi-cultural background, they are particularly suited to provide primary medical care to certain populations that might otherwise be neglected. Also, without PAs, some communities would be without an adequate number of health care providers. Because of this, the PAC will seek legislation that would allow a ratio of 4 PAs to 1 physician in underserved area of California as a 4-year pilot project.

ISSUE #7. Should current requirements for the PAC to approve Physician Assistant training program in California be eliminated as recommended by the PAC?

Recommendation: *The Department recommended that PAEC retain final statutory approval authority, but promulgate regulations to allow them to rely on recognized accrediting bodies. Committee staff concurred with the Department. However, it appeared as if PAC would need further clarification of their statutory authorization to recognize another accrediting organization, and could not do so through the regulatory process. Committee staff recommended changing Section 3513 of the Business and Professions Code to reflect the recommendation of the Department.*

PAC RESPONSE:

While it was previously thought that taking this action would be practical, upon further reflection, the PAC agrees with DCA that the PAC should retain final statutory approval authority. Having the ability to either approve or disapprove a training program ensures that the Committee meets its mandate to protect consumers by holding the national accrediting body, ARC-PA, to consistent standards. This ensures that only well-trained and qualified PAs apply for licensure.

The changes concerning using a recognized accrediting body were implemented as a result of SB 1981 (Greene, Statutes of 1998, Chapter 736).

ISSUE #8. Should the Diversion Program of the PAC be continued?

Recommendation: *The Department recommended that the PAEC, the Medical Board, the Department, other boards with diversion programs, and the Legislature research an appropriate approach to privatizing diversion programs with special attention to the existing participants. Committee staff concurred with this recommendation and recommended that the Medical Board, in conjunction with other boards providing*

diversion programs, report to the Joint Committee by September 1, 1999, on a plan to privatize diversion programs. The Joint Committee did not adopt this recommendation of the Department and the Committee staff by a vote of 3-3.

PAC RESPONSE:

The PAC Diversion Program is unique in that the PAC contracts with a private firm (Managed Health Net Services) to provide services to PAs with alcohol or drug dependency problems. While the average cost of these services for the past four years was approximately \$10,200 per year, the PAC believes that this money was well spent because it provides consumer protection since PAs can seek treatment either voluntarily or as part of a formal disciplinary probation requirement. Moreover, the PAC staff is alerted should a PA fail to successfully complete the program. With this warning staff is able to take appropriate action that ensures public protection. With this program, consumers are better protected from PAs whose practice may be compromised because of alcohol or drug dependency problems.

ISSUE #9. Is the PAC meeting its legislative mandate to encourage the utilization of physician assistants by physicians in underserved areas of the State, and to allow for development of programs for the education and training of physician assistants?

Recommendation: *The Department did not address this issue. Committee staff recommended that the PAEC consult with the Office of Statewide Health Planning to assess whether PAs are being appropriately utilized in underserved areas, and with other appropriate agencies and educational institutions, to assure that programs are being developed for the education and training of PAs. Recommendations for improvement in both of these areas should be forwarded to the Legislature for consideration by March 1, 2000.*

PAC RESPONSE:

While the PAC has distributed information about PAs at health care fairs and PA conferences, and given information to the California Academy of Physician Assistants, there is much more action that must be taken. The PAC is working with the Medical Board to provide information to current and newly licensed doctors so that they are aware of PAs and the role they play in providing health care to California health care consumers. During the next year, the PAC will also be working with the PA training programs and Office of Statewide Health Planning and Development to determine what actions could be taken to meet its legislative mandate.

ISSUE #10. Should the PAC continue to under the jurisdiction of the Medical Board, be given statutory independence as an

independent board, merged with the Medical Board or should its operations and functions be assumed by the Department of Consumer Affairs.?

Recommendation: *Both the Department and Committee staff recommended that the Physician Assistant Examining Committee continue as the agency responsible for the regulation of the practice of physician assistants. Committee staff recommended that the sunset date of the Board be extended for four years (to July 1, 2003). In the meantime, the Board should evaluate whether merger with the Medical Board would be more efficient and effective in regulating the profession of physician assistants, and present a possible plan for merger at the time of their next sunset review.*

PAC RESPONSE:

The PAC believes that no changes are necessary to its current status as it is effectively and efficiently carrying out its duty to protect the consumers of California. Committee members also believe that the current arrangement of working with the Medical Board of California (MBC) serves to protect the consumers of California. The Committee has only limited ties with the MBC. It pays for investigative, probationary, and minor administrative services from the MBC and is satisfied with the arrangement. As the Committee would still need investigative and other services, it does not benefit from severing its very limited ties with the Medical Board.

Likewise, consumers would not benefit from the PAC merging with the MBC or having the DCA assume the operations and functions of the Committee as a merger would not benefit the consumer or the licensee since merger would not decrease licensing or complaint processing time frames.

Currently, specific staff members are assigned to enforcement and licensing matters and as a result, the PAC can respond quickly to any issue that may arise. It is doubtful that merging with another agency would allow for a faster response time since the needs of that agency often take priority.

However, should the PAC merge with the MBC, it could be done by placing PAC staff, already trained to do their duties, to their respective units within the Medical Board.(i.e. licensing and enforcement).

ISSUE #11. Should the composition of the PAC be changed to increase public representation?

Recommendation: *This Board has 9 members, of which 3 are licensed physician assistants, 3 physicians, 2 are public members, and 1 is an educator from a PA Training Program. The Department generally recommends a public member majority and an odd number of members for regulatory boards. For the PAEC, the Department recommended an increase in public membership to improve balance consistent with those guidelines.*

Committee staff concurred with the Department, and recommended adding two more public members to the Board (one of which should be a public member of the Medical Board) and removing two of the physician members. The composition of the Board would still be 9 members, but with 4 licensed physician assistants, 4 public members, and 1 physician.

PAC RESPONSE:

SB 1981 (Greene, Chapter 749, Statutes of 1998) made this change a reality. The nine-member committee is now composed of:

- one physician member from the Medical Board of California
- four PAs
- four public members.

ISSUE #12. Should the PAC reduce licensing fees for physician assistants and eliminate the licensing fee for supervising physicians

Recommendation: *Department did not address this issue. Committee staff recommended that the PAEC continue reducing fees for supervising physicians, and if necessary physician assistants, to maintain no more than three to six months in reserve for operating expenses. However, consideration should be made to maintaining an adequate budgetary reserve if the fee for supervising physicians is eliminated entirely within two years.*

PAC RESPONSE:

At the request of the Committee, Senate Bill 1981 (Greene, Chapter 749, Statutes of 1998) contained language eliminating physician assistant supervisor fees, application and Medical Board of California approval. While this reduced the PAC revenue base by approximately 60%, the PAC believed that this was an important and necessary step for PAs. This change eliminated a barrier that in some cases kept physicians from working with PAs. PAs are now solely responsible for funding a program that regulates their profession.

With this change, as indicated previously, PA fees will need to be increased to adequately support the program and maintain the same level of consumer protection.

ISSUE #13. Should the name of the Physician Assistant Examining Committee be changed to "Physician Assistant Committee," as recommended by the PAEC?

Recommendation: *Both the Department and Committee staff recommended changing the name of this committee to the "Physician Assistants Committee."*

PAC RESPONSE:

This change was accomplished with legislation (SB 1981 (Greene, Chapter 736, Statutes of 1998) from the previous Sunset Review.

ISSUES IDENTIFIED BY THE COMMITTEE

One of the frustrations expressed to PAC members by staff, deals with applicants who have had convictions prior to licensure. These convictions could be for a variety of reasons (e.g., drug or alcohol problems, criminal convictions, malpractice problems).

Currently, the PAC has only two options: grant or deny the license. If committee staff makes the decision to deny, the applicant has the right to challenge this decision. If they decide to challenge the decision and the committee chooses to fight this challenge, committee staff, through legal counsel with the Attorney General's office, must file a Statement of Issues. This can be a lengthy and costly process.

At least one other health care regulatory agency, The Medical Board of California, has legal provisions for a probationary certificate. This is an initial license that allows an individual to practice with certain restrictions. If the individual violates any of the terms of their conditions to practice, their license is revoked and they must cease practice. However, if they successfully complete the terms of their practice requirements, they receive a clear and unrestricted license.

Such an approach has at least two advantages. First, it gives PAC staff another tool to use for applicants who have past convictions or disciplinary action against another license they hold and is less expensive than having to file a Statement of Issues and still provides consumer protection. Second, it provides the Committee with a mechanism to monitor individuals who may have practice problems.

A second proposal deals with enhancing consumer protection by strengthening reporting requirements. Currently, any consumer who inquires about a PA is only told:

- If a person is licensed as a PA in California and their license number.
- The date a PA's license was issued, and the date it will expire if not renewed.
- The PA training program a PA graduated from and the year of graduation.
- The status of a PA's license, e.g., renewed/current, cancelled, revoked, etc.
- If there has been a proposed or disciplinary action against a PA.

Consumers cannot find out about the following information because the law currently does not require that it be reported to the PAC as it does for other health care professions:

- If a PA has been convicted of a felony.
- Malpractice judgements or arbitration awards.
- Any hospital disciplinary actions that resulted in the termination or revocation of a PA's hospital staff privileges for a medical disciplinary cause or reason.

While some of this information has been voluntarily supplied to the PAC, without legal requirements to release it, PAC staff are unable to inform consumers. Also, since the PA profession has grown and an increasing number of PAs are working in hospitals, it is reasonable that PAs have the same requirements as physicians and other health care providers. Most

importantly, this information will allow the committee to determine if disciplinary action is needed so it can better fulfill its mandate to protect consumers.

A third proposal deals with the PAC's legislative mandate to encourage the utilization of Physician Assistants. In traveling to each of the eight California Physician Assistant training programs, I have been impressed by the diversity of age, gender, and ethnicity in each class. It is this diversity, especially the ethnic diversity of many different cultures and languages, combined with excellent training, that allow Physician Assistants to effectively and efficiently provide care to the varied populations of Californians. Physician Assistants with their unique background and training are able to:

- initiate treatment;
- order transport of a patient to an acute care facility;
- transmit drug orders (including Schedule II); and,
- bill Medi-Care and Medi-Cal.

With California's ever increasing population and growing health care demands, the need for PAs has never been greater. To meet this need, three new PA training programs have been added in the last four years. More, though, must be done.

One solution to meet this increasing need for primary health care providers is to increase the number of PAs that a physician could supervise. The current supervisory requirement limits a PA Supervisor to just 2 PAs. This requirement limits the public's access to health care, especially in underserved areas where there are fewer physicians and, as a result, fewer PAs. A requirement that allows a ratio of 4 PAs to 1 physician, as is done in other states, would greatly help to meet this need.

As this requirement would establish a new standard, it would best be done on a four-year pilot project basis to determine if this should be a permanent standard. Such a requirement though would allow physician assistants to become even more of an asset to physicians in meeting California's growing health care needs.

3.

BACKGROUND PAPER FOR HEARING

PRIOR SUNSET REVIEW: The Physician Assistant Committee (PAC) was last reviewed by the Joint Legislative Sunset Review Committee (JLSRC) four years ago (1997-98). The JLSRC and the Department of Consumer Affairs (DCA) identified a number of issues and problem areas concerning the PAC and directed the Board to address these concerns and implement a number of changes as recommended. Some of these included: (1) justify the need to provide prescriptive authority to Physician Assistants (PAs); (2) justify the need to continue with the approval of supervising physicians for Physicians Assistants (PAs); (3) apply limited liability provisions and good Samaritan laws to PAs; (4) justify why supervising physicians should be allowed to supervise more than 2 PAs; (5) eliminate requirement that PAC approve PA-training programs; (6) indicate what PAC has done to encourage the utilization of PAs by physicians in underserved areas, and to assure that programs are developed for education and training of PAs; (7) change the composition of the PAC to include more public members. The JLSRC also found that there was sufficient evidence to recommend the continued licensure of PAs and extend the sunset of the PAC.

In September, 2001 the PAC submitted its required sunset report to the JLSRC. In this report, information of which is provided in Members' binders, the PAC described actions it has taken since the PAC's prior review. The PAC addressed some of the issues presented by the JLSRC and Legislature over the past four years and also implemented some of the following changes pursuant to legislation and on its own initiative since its last review. This included:

- Pursued legislation to eliminate requirement that Physician Assistant Supervisors submit an application, pay a fee, and receive Medical Board approval to supervise a PA.
- Pursued legislation to give PAs the ability to obtain their own DEA numbers and issue drug orders rather than allowing outright prescriptive authority.
- Pursued legislation to apply limited liability provisions and good Samaritan laws to PAs.
- Pursued legislation to change the composition of the PAC to add two additional public members.
- Created web site as of October 2000 for consumers, applicants, PAs, and physician assistant supervisors.

Beginning on the next page are a number of unresolved issues pertaining to the PAC, or areas of concern for the JLSRC, along with background information concerning the particular issue. There are also questions that staff has asked concerning the particular issue. The PAC was provided with these issues and questions and is prepared to address each one if necessary.

CURRENT SUNSET REVIEW ISSUES

COMMITTEE POWERS AND DUTIES ISSUES

ISSUE #1: There were numerous vacancies on the Physician Assistant Committee (PAC) which prevented them from having a quorum and taking specific actions as needed?

Question #1 for the Board: What problems did a lack of a quorum cause for the PAC? Is the PAC now meeting with a quorum of members and have subcommittees been established to carry out the functions and responsibilities of the PAC?

Background: The PAC did not have a quorum from January 1, 2001 until May 11, 2001 (term limits and a resignation limited membership to only 3 or 9 members), and as of the September sunset report, the PAC had not as yet decided what subcommittees they wished to form to carry on the duties of the PAC. Prior to this there were four subcommittees:

- Executive and Budget Subcommittee
- Physician Education and Public Affairs Subcommittee
- Legislation and Regulation Subcommittee
- Licensing and PA Training Programs Subcommittee

BUDGETARY ISSUES

ISSUE #2: The PAC has a significant reserve, almost two years worth of budgetary expenditures, yet they indicate a fee increase will be necessary?

Question #2 for the Board: *Why does the PAC believes that a fee increase may be necessary?*

Background: In July 1, 2001, the fee charged to PA supervisors was eliminated along with the requirement for approval of supervising physicians of Pas. Fee revenue from PA supervisors provided approximately 60% of the PAC revenue. As indicated by the PAC, the fund condition will decline appreciably over the next 2 to 3 years. This may necessitate a fee increase.

ISSUE #3: There appears to have been almost a 60% increase in physicians assistants licensed by the PAC over the past eight years.

Question #3 for the Board: *Please explain why there has been such a significant increase in the number of physician assistants being licensed by the PAC. Does this increase reflect a change in the way that physician assistants are being utilized in the health care delivery system? Is this causing workload or budgetary problems, or any delays in the licensing of physician assistant applicants?*

Background: In the past eight years, there has been a substantial increase in the number of PAs licensed within California. In FY 1993/94, there were approximately 2300 PAs licensed by the PAC. In FY 2000/01, the PAC licensed almost 3900 PAs.

LICENSURE ISSUES

ISSUE #4: Should a “second pathway” to licensure, that allows a graduate of medical school to apply for a physician assistant license, be eliminated?

Question #4 for the Board: *Why does the PAC believe this second pathway to licensure should be eliminated? Could potential candidates be impacted if it is eliminated?*

Background: During the PAC’s last sunset review this issue was considered. The JLSRC made no recommendation at that time, but indicated instead that the PAC should provide further evidence on the impact, if any, of this change to international medical graduates (IMGs) and what steps could be taken to assure fair treatment of IMGs in meeting the requirements for licensure as a PA. The PAC is again recommending that this second pathway to licensure be eliminated. The PAC is concerned that the ability of students who have graduated from medical school and practice as PAs ignores the complexity and sophistication of current PA practice, and that no graduate of a medical school has still ever applied to be licensed as a PA. Also, a person attempting to become licensed as a medical school graduate would be unable to qualify to sit for the licensing examination. With respect to IMGs, the PAC stated that the law is clear that they must complete an approved PA training program and complete the written examination.

ISSUE #5: Should the PAC be granted authority to provide a “probationary certificate,” similar to the Medical Board, for applicants who may otherwise be denied a license because of prior convictions?

Question #5 for the Board: *Why does the PAC believe authority to grant a “probationary certificate” for certain applicants for licensure is necessary?*

Background: One of the frustrations expressed by the PAC, deals with applicants who have had convictions prior to licensure. These convictions could be for a variety of reasons (e.g., drug or alcohol problems, criminal convictions, malpractice problems). Currently, the PAC has only two

options: grant or deny the license. If the PAC makes the decision to deny, the applicant has the right to challenge this decision. If they decide to challenge the decision and the PAC chooses to fight this challenge, the PAC, through legal counsel with the Attorney General's office, must file a Statement of Issues. This can be a lengthy and costly process.

At least one other health care regulatory agency, The Medical Board of California, has legal provisions for a probationary certificate. This is an initial license that allows an individual to practice with certain restrictions. If the individual violates any of the terms of their conditions to practice, their license is revoked and they must cease practice. However, if they successfully complete the terms of their practice requirements, they receive a clear and unrestricted license. Such an approach has at least two advantages as expressed by the PAC. First, it gives the PAC another tool to use for applicants who have a past conviction or disciplinary action against another license they hold and is less expensive than having to file a Statement of Issues and still provides consumer protection. Second, it provides the PAC with a mechanism to monitor individuals who may have practice problems.

ISSUE #6: Is the PAC meeting its legislative mandate to encourage the utilization of physicians assistants by physicians in underserved areas of the State, and to allow development of programs for the education and training of physicians assistants?

Question #6 for the Board: *Has the PAC consulted with the Office of Statewide Health Planning to assess whether physician assistants are being appropriately utilized in underserved areas, and with other appropriate agencies and educational institutions to assure that programs are being developed for the education and training of physician assistants? Did the PAC submit recommendations for the improvement in both of these areas to the Legislature in March 1, 2000, as requested by the Joint Committee?*

Background: During the PAC's last sunset review this issue was considered. The JLSRC recommended that the PAC consult with the Office of Statewide Health Planning to assess whether PAs are being appropriately utilized in underserved areas, and with other appropriate agencies and educational institutions, to assure that programs are being developed for the education and training of PAs. Recommendations for improvement in both of these areas should be forwarded to the Legislature for consideration by March 1, 2000. Unfortunately, it does not appear as if the PAC has taken any regarding this recommendation.

PROFESSIONAL PRACTICE ISSUES

ISSUE #7: Should supervising physicians be allowed to supervise four physician assistants rather than just two, as is currently permitted by law?

Question #7 for the Board: *Please explain why the PAC believes that the ratio of supervising physicians to physician assistants should be changed?*

Background: During the PAC's last sunset review this issue was considered. The JLSRC concurred with the recommendation of the PAC, at that time, for the PAC to pursue legislation to allow physicians to supervise at least four PAs, as long as the supervising physician and PAs were not involved in a more complicated medical specialty. It does not appear that the PAC took any action pursuant to this recommendation, even though initially recommended by the PAC to the JLSRC.

The PAC is again recommending that the ratio of PAs to a supervising physician be four.

ENFORCEMENT ISSUES

ISSUE #8: **Disciplinary actions taken by health care facilities against physician assistants are not required to be reported to the PAC. Nor are felony convictions, malpractice settlements or judgments, or arbitration awards?**

Question #8 for the Board: *Why shouldn't disciplinary actions taken by a health care facility, such as suspension, denial or termination of the physician assistants privileges within a health facility, be reported to the PAC? What other information should be reported to the PAC? What about disciplinary actions taken by a supervising physician?*

Background: As indicated by the PAC, currently, any consumer who inquires about a PA is only told:

- If a person is licensed as a PA in California and their license number.
- The date a PA's license was issued, and the date it will expire if not renewed.
- The PA training program a PA graduated from and the year of graduation.
- The status of a PA's license, e.g., renewed/current, cancelled, revoked, etc.
- If there has been a proposed or disciplinary action against a PA.

Consumers cannot find out about the following information because the law currently does not require that it be reported to the PAC as it does for other health care professions:

- If a PA has been convicted of a felony.
- Malpractice judgments or arbitration awards.
- Any hospital disciplinary actions that resulted in the termination or revocation of a PA's hospital staff privileges for a medical disciplinary cause or reason.

While some of this information has been voluntarily supplied to the PAC, without legal requirements to release it, the PAC is unable to inform consumers. Also, as indicated by the PAC, since the PA profession has grown and an increasing number of PAs are working in hospitals, it is reasonable that PAs have the same requirements as physicians and other health

care providers. Most importantly, this information will allow the PAC to determine if disciplinary action is needed so it can better fulfill its mandate to protect consumers.

DIVERSION PROGRAM ISSUES

ISSUE #9: Costs for the PAC of the Diversion Program increased significantly over the past four years -- from \$6,725 to \$23,710 -- with only one or two successful completions within the program per year.

Question #9 for the Board: *Why should the Diversion Program for physician assistants be continued?*

Background: As indicated by the PAC, the Diversion Program is unique in that the PAC contracts with a private firm (Managed Health Net Services) to provide services to PAs with alcohol or drug dependency problems. While the average cost of these services for the past four years was approximately \$10,200 per year, the PAC believes that this money was well spent because it provides consumer protection since PAs can seek treatment either voluntarily or as part of a formal disciplinary probation requirement. Moreover, the PAC staff is alerted should a PA fail to successfully complete the program. With this warning staff is able to take appropriate action that ensures public protection. With this program, consumers are better protected from PAs whose practice may be compromised because of alcohol or drug dependency problems.

4.

FINAL RECOMMENDATIONS OF THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE AND THE DEPARTMENT OF CONSUMER AFFAIRS

ISSUE #1. (CONTINUE REGULATION OF THE PROFESSION AND THE COMMITTEE?) Should the licensing and regulation of physician assistants be continued, and the professions be regulated by an independent committee board rather than by a bureau under the Department?

Recommendation #1: *The Joint Committee and the Department recommend that physician assistants should continue to be regulated by the Physician Assistant Committee in order to ensure public health and patient safety.*

Comments: The nine-member Physician Assistant Committee (Committee) was created by the Legislature in 1975, when the licensing act establishing the profession of physician assistant was enacted. Physician assistants are dependent practitioners who work under the indirect supervision of a physician and perform many diagnostic, preventative and health maintenance services. These include performing physical examinations, establishing diagnoses, and performing minor procedures and surgery.

The growth of “managed care” has prompted increased reliance on physician assistants. They are being more widely used in hospitals, private practices, and community clinics throughout the state. Consequently, the number of physician assistants licensed by the Committee has increased.

The Committee licenses almost 4,000 physician assistants annually and has a budget of approximately \$1 million and a significant reserve of \$1.5 million. Nine members serve on the Committee – four licensees, four public members, and one licensed physician. The Department and the JLSRC last reviewed the Committee four years ago in 1997-98 and recommended the continued licensure of physician assistants and extended the sunset of the Committee.

Although physician assistants work under the supervision of a physician, they do engage in significant, independent interaction with patients. Physician assistants provide primary health care and some specialty health care to patients, requiring a high degree of education, training, and experience. Consumer protection is dependent upon vigorous credentialing of physician’s

assistants. The Committee continues to provide an effective mechanism for consumer protection and licensure of physician assistants.

ISSUE #2: (SHOULD REPORTING REQUIREMENTS TO THE COMMITTEE BE ENHANCED?) Should disciplinary actions taken by a health care facility, such as suspension, denial or termination of a physician assistant's privileges within a health facility, be reported to the Committee? What other information should be reported to the Committee?

Recommendation #2: *The Joint Committee and the Department recommend that disciplinary actions taken by hospitals against physician assistants should be reported to the Committee, as well as felony convictions and malpractice settlements against the physician assistant.*

Comments: To enhance consumer protection, the Department and the JLSRC supports mandating the reporting of disciplinary action taken by hospitals against physician assistants to the Committee. In addition, felony convictions and malpractice settlements should be reported to the Committee. As increasing numbers of physician assistants are working in hospitals, physician assistants should also be included in the Business and Professions Code Section 800 reporting requirements. Receiving this information will enable the Committee to better monitor the performance of its licensees. This reporting requirement applies to other health practitioners and is beneficial to consumer protection. During this sunset review, the Department is also supporting the inclusion of physical therapists and acupuncturists in this reporting requirement.

ISSUE #3: (ASSURE PHYSICIAN ASSISTANTS ARE BEING UTILIZED IN UNDERSERVED AREAS AND PROGRAMS ARE BEING DEVELOPED FOR EDUCATION AND TRAINING OF PHYSICIAN ASSISTANTS?) What action should the Committee take to meet its legislative mandate to encourage the utilization of physician assistants in underserved areas of the State, and to allow development of programs for the education and training of physician assistants?

Recommendation #3: *The Joint Committee and the Department recommend that the Committee should consult with the Office of Statewide Health Planning and Development (OSHPD) to assess whether physician assistants are being appropriately utilized in underserved areas and the Committee should promote the development of education and training programs for physician assistants throughout the state.*

Comments: During the Committee's last sunset review in 1997-1998, the JLSRC recommended that the Committee consult with OSHPD to assess whether physician assistants are being appropriately utilized in medically underserved areas, and with other appropriate agencies and educational institutions, to assure that programs are being developed for the education and training of physician assistants. Recommendations for improvement in both of these areas were to be forwarded to the Legislature for consideration by March 1, 2000. The Committee has not completed this project.

With the increasing shortage of health care providers in rural and medically underserved areas of the state, it is critical that licensing entities such as the Committee are proactive in identifying options to increase physician assistant supply and recruitment in these areas. Developing recommendations, in partnership with OSHPD, is an important step toward addressing this issue. The Committee should complete its report and provide its recommendations to the Department and the JLSRC no later than January 1, 2003. In the meantime, the Committee should provide the Department with quarterly progress reports.

Working with OSHPD, the Committee should identify areas in the state that are medically underserved and are facing a shortage of health care providers. Once these geographic areas have been identified, the Committee should take specific steps to outreach to physician assistants in those communities.

ISSUE #4: (ALLOW PHYSICIANS TO SUPERVISE FOUR PHYSICIAN ASSISTANTS?) Should supervising physicians be allowed to supervise four physician assistants rather than just two, as is currently permitted by law?

Recommendation #4: *The Joint Committee and the Department recommend that the Committee should establish a four-year pilot project increasing the number of physician assistants a physician may supervise from 2 to 4 in medically underserved areas.*

Comments: The Department and JLSRC support the Committee's recommendation that it establish a pilot project in medically underserved areas that increases the number of physician assistants a physician may supervise from 2 to 4. As California's population continues to grow, the need for health care providers, particularly in hard to recruit areas, also increases. Many primary health care providers in these areas already rely on physician assistants to expand the number of patients they can care for on a daily basis. Implementation of this pilot project would increase the number of Californians receiving care in these communities.

Prior to establishing the pilot program, the Committee should adopt a narrow definition of a "medically underserved" area and develop selection criteria to determine which facilities should be eligible to participate. The pilot project should also target the geographic areas of the state that are most underserved, as determined by its work with OSHPD. Additionally, the Committee should establish evaluation criteria and mechanism, concurrent with the pilot project. Once the Committee has done this research and identified the specific parameters of the program, the pilot project should be implemented.

ISSUE #5: (ENCOURAGE INTERNATIONAL MEDICAL GRADUATES TO BECOME PHYSICIAN ASSISTANTS?) Should the Committee develop an outreach plan to identify and encourage International Medical Graduates to pursue training as physicians assistants?

Recommendation #5: *The Joint Committee and the Department recommend that the Committee should develop an outreach plan aimed at reaching International Medical Graduates not currently working in the health care delivery system.*

Comments: California's focus on addressing health care provider shortages has necessarily increased attention on International Medical Graduates (IMGs) currently living in California who are not working in the health care delivery system. Many IMGs are working in non-health related occupations but are studying for California licensing examinations. Many are enrolled in educational programs to gain the additional training needed for licensure in California.

In order to access this resource and expand the pool of trained and licensed physician assistants, the Department recommends that the Committee develop an outreach plan to identify and encourage International Medical Graduates to pursue training as physician assistants. IMGs may not be aware of the physician assistant education and training programs, but would be well prepared to go through those programs and work as dependent practitioners.

The Committee's outreach plan should include ways to identify International Medical Graduates and to inform them of opportunities as physician assistants. Additionally, the Department recommends that the Committee designate a staff liaison to work directly with IMG's.

ISSUE #6: (ELIMINATE SECOND PATHWAY TO LICENSURE FOR PHYSICIAN ASSISTANTS?) Should a "second pathway" to licensure, that allows a graduate of medical school to apply for a physician assistant license, be eliminated as recommended by the Committee?

Recommendation #6: *The Joint Committee and the Department recommend that the Committee should preserve and modify the "second pathway" to licensure.*

Comments: Currently, the Business and Professions Code allows an alternative licensing pathway, the "second pathway", to physicians who have graduated from an approved U.S. or Canadian medical school. The second pathway to licensure could serve as an important mechanism to facilitate the entrance of graduates of U.S. or Canadian medical schools into the profession. The Committee points out that a candidate for licensure who did pursue this pathway would not be eligible to sit for the written examination as they have not graduated from an accredited physician assistant training program, as a result of a requirement of the National Commission on Certification of Physician Assistants.

Clearly, the fact that no U.S. or Canadian medical school graduate has ever pursued this licensure pathway, demonstrates the need for reform. Rather than eliminating the second pathway, however, the Department and the JLSRC recommends that the Committee look at ways in which the program could be made more functional, either through the development of an alternative examination or through a change of the National Commission on Certification of Physician Assistants' policy. The Committee should continue to look at ways to make the second pathway more accessible, prior to the next sunset review. Recognizing the need to

expand the number of qualified health care providers in California, it is important to preserve this option that facilitates licensure by qualified International Medical Graduates.

ISSUE #7: (ALLOW FOR “PROBATIONARY CERTIFICATE?”) Should the Committee be granted authority to provide a “probationary certificate,” similar to the Medical Board, for applicants who may otherwise be denied a license because of prior convictions?

Recommendation #7: The Joint Committee and the Department recommend that the Committee should be granted authority to provide a “probationary certificate.”

Comments: At least one other health care regulatory agency, the Medical Board of California, has legal provisions to grant a probationary certificate which allows an individual to practice with certain restrictions, if he or she has had convictions prior to licensure. The certificate serves as an initial license – if the licensee successfully completes the term of their practice requirements, they receive a clear and unrestricted license. If they do not, their license is revoked.

The Committee has made a compelling argument that while the annual volume of such applicants is estimated to be less than twenty cases, the authority to grant a licensee a probationary certificate would provide an efficient and cost effective means for the Committee staff to monitor applicants who may have had convictions prior to licensure. To assure meaningful oversight of these licensees, the Committee should develop a data collection and tracking system to evaluate the success of the probationary certificate mechanism. The Committee should work with the Department to develop this tracking system and should provide the Department with regular progress reports on the use of this authority. With the establishment of this mechanism, the Department recommends the Committee be given authority to provide probationary certificates. The Department makes a similar recommendation this year in our report on the Physical Therapy Board.